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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 KIMBERLY HUDSON-BRYANT,
12 individually and on behalf of all others
13 similarly situated,

14 *Plaintiff,*

15 v.

16 OCMBC, INC. D/B/A
17 LOANSTREAM,

18 *Defendant.*

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

19
20 **CLASS ACTION COMPLAINT**

21 Plaintiff Kimberly Hudson-Bryant (hereinafter referred to as “Plaintiff”),
22 individually and on behalf of all others similarly situated, alleges on personal
23 knowledge, investigation of her counsel, and on information and belief, as follows:
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3 **NATURE OF ACTION**

4 1. This case involves a campaign by OCMBC, Inc. d/b/a LoanStream
5 (“LoanStream”) to market its loan services through telemarketing calls by
6 contacting numbers on the National Do Not Call Registry in plain violation of the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (hereinafter referred
8 to as the “TCPA”).
9

10 2. The recipients of LoanStream’s illegal calls, which include Plaintiff
11 and the proposed class, are entitled to damages under the TCPA, and because the
12 technology used by LoanStream makes calls *en masse*, the appropriate vehicle for
13 their recovery is a class action lawsuit.
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16 **PARTIES**

17 3. Plaintiff Kimberly Hudson-Bryant is an individual located in Texas.
18

19 4. Defendant LoanStream, LLC is a California limited liability company
20 that makes telemarketing calls from this District.
21

22 **JURISDICTION AND VENUE**

23 5. This Court has federal question jurisdiction pursuant to 28 U.S.C. §
24 1331 and 47 U.S.C. § 227 *et seq.*

25 6. This Court has general jurisdiction over LoanStream because the
26 company is located in this District.
27

1 7. Venue is proper pursuant to 28 U.S.C. § 1391 because the telephone
2 calls at issue were sent from this District.

3 **TCPA BACKGROUND**

4 **The National Do Not Call Registry**

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6 8. The TCPA prohibits making multiple telemarketing calls to a
7 residential telephone number that has previously been registered on the National
8 Do Not Call Registry. See 47 U.S.C. § 227(c)(5).

9
10 9. The National Do Not Call Registry allows consumers to register their
11 telephone numbers and thereby indicate their desire not to receive telephone
12 solicitations at those numbers. See 47 C.F.R. § 64.1200(c)(2).

13
14 10. A listing on the National Do Not Call Registry “must be honored
15 indefinitely, or until the registration is cancelled by the consumer or the telephone
16 number is removed by the database administrator.” *Id.*

17 **FACTUAL ALLEGATIONS**

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19 11. Defendant LoanStream is a “person” as the term is defined by 47
20 U.S.C. § 153(39).

21
22 12. Plaintiff’s telephone number, 323-XXX-XXXX, is used for residential
23 purposes and is used for personal purposes.

24
25 13. That number is not associated with a business.

1 14. The number has been registered on the National Do Not Call Registry
2 continuously since September 1, 2003.

3 15. Despite this, the Plaintiff received two telemarketing calls from
4 LoanStream as part of its solicitation campaign on October 12, 2021, at 1:07 PM
5 and 2:18 PM.

6 16. The calls were sent from the Caller ID 213-521-2618.

7 17. The first call, at 1:07 PM, was unanswered and went to voicemail.

8 18. The second call, at 2:18 PM, was answered by Plaintiff. When
9 Plaintiff answered, an individual named “Karisha” with “LoanStream Mortgage”
10 was looking for an individual named “Ms. Woods.”

11 19. The caller went into a sales pitch and stated that the Plaintiff was pre-
12 qualified to refinance her mortgage for a lower interest rate if it was above 3%.

13 20. For the aforementioned reasons, the message the Plaintiff received
14 was sent using automated means. This is especially so because it bears indicia that
15 it was created from a generic, scripted message, including the fact that Plaintiff is
16 not Ms. Woods.

17 21. On January 3, 2023, the Plaintiff sent an email to the Defendant
18 attempting to ascertain why she received the aforementioned unwanted and
19 unsolicited calls, to request that her number be placed on Defendant’s Do Not Call
20 List, and to receive a copy of Defendant’s Do Not Call Policy.

1 22. The Defendant did not respond to this correspondence.

2 23. This use of automated means to make calls is indicative of *en masse*
3 calling.
4

5 24. The calls were not necessitated by an emergency.

6 25. Plaintiff and all members of the Class, defined below, have been
7 harmed by the acts of Defendant because their privacy has been violated and they
8 were annoyed and harassed. Plaintiff and the Class Members were also harmed by
9 use of their telephone power, network bandwidth, and the intrusion on their
10 telephone that occupied it from receiving legitimate communications.
11
12

13 **CLASS ACTION ALLEGATIONS**
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15 26. Plaintiff bring this action on behalf of herself and the following class
16 (the “Class”) pursuant to Federal Rule of Civil Procedure 23.
17

18 **Telephone Consumer Protection Act Do Not Call Registry Class:**

19 All persons in the United States whose (1) telephone numbers were on
20 the National Do Not Call Registry for at least 31 days, (2) but who
21 received more than one telemarketing calls from or on behalf of
22 Defendant (3) within a 12-month period (4) from the four years prior to
23 the filing of the complaint through the date of trial.
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27. Defendant and its employees or agents are excluded from the Class. Plaintiff reserves the right to modify or amend the Class definition, as appropriate, during the course of this litigation.

28. Plaintiff brings all claims in this action individually and on behalf of Class Members against Defendant.

Numerosity

29. Members of the Class are so numerous that their individual joinder is impracticable.

30. On information and belief, based on the technology used to call Plaintiff, which is used to make calls *en masse*, Members of the Class number in the thousands.

31. The precise number of Class Members and their identities are unknown to Plaintiff at this time but may be determined through discovery.

32. Class Members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant.

Commonality

33. Common questions of law and fact exist as to all Class Members and predominate over questions affecting only individual Class Members.

34. Common legal and factual questions include, but are not limited to, whether Defendant has violated the Telephone Consumer Protection Act and

1 whether Class Members are entitled to actual and/or statutory damages for the
2 aforementioned violations.

3 4 **Typicality**

5 35. The claims of the named Plaintiff are typical of the claims of the Class
6 because the named Plaintiff, like all other Class Members, received unsolicited
7 telephonic sales calls from the Defendant without giving them her consent to receive
8 such calls.
9

10 **Adequacy of Representation**

11 36. Plaintiff is an adequate representative of the Class because her interests
12 do not conflict with the interests of the Class Members she seeks to represent, she
13 has retained competent counsel experienced in prosecuting class actions, and she
14 intends to prosecute this action vigorously.
15
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17 37. The interests of Class Members will be fairly and adequately protected
18 by Plaintiff and her counsel.
19

20 **Superiority**

21 38. The class mechanism is superior to other available means for the fair
22 and efficient adjudication of the claims of Class Members.
23

24 39. Many of the Class Members likely lack the ability and/or resources to
25 undertake the burden and expense of individually prosecuting what may be a
26 complex and extensive action to establish Defendant's liability.
27

1 40. Individualized litigation increases the delay and expense to all parties
2 and multiplies the burden on the judicial system. This strain on the parties and the
3 judicial system would be heightened in this case, given the complex legal and factual
4 issues at play.
5

6 41. Individualized litigation also presents a potential for inconsistent or
7 contradictory judgments.
8

9 42. In contrast, the class action device presents far fewer management
10 difficulties and provides the benefits of single adjudication, economy of scale, and
11 comprehensive supervision by a single court on the issue of Defendant's liability.
12

13 43. Class treatment of the liability issues will ensure that all claims and
14 claimants are before this Court for consistent adjudication of the liability issues.
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16 **COUNT I**
17 **Telephone Consumer Protection Act**
18 **(Violations of 47 U.S.C. § 227)**
19 **(On Behalf of Plaintiff and the National Do Not Call Registry Class)**

20 44. Plaintiff repeats and incorporates the allegations set forth in
21 paragraphs 1 through 43 as if fully set forth herein.
22

23 45. The foregoing acts and omissions of Defendant and/or its affiliates,
24 agents, and/or other persons or entities acting on Defendant's behalf constitute
25 numerous and multiple violations of the TCPA, 47 U.S.C. § 227, by making
26
27

1 telemarketing calls, except for emergency purposes, to the Plaintiff and the Class
2 despite their numbers being on the National Do Not Call Registry.

3 46. The Defendant's violations were negligent, willful, or knowing.

4 47. As a result of Defendant's and/or its affiliates, agents, and/or other
5 persons or entities acting on Defendant's behalf violations of the TCPA, 47 U.S.C.
6 § 227, Plaintiff and members of the Class presumptively are entitled to an award
7 of between \$500 and \$1,500 in damages for each and every call made.
8

9 48. Plaintiff and members of the Class are also entitled to and do seek
10 injunctive relief prohibiting Defendant from making telemarketing calls to
11 numbers on the National Do Not Call Registry, except for emergency purposes, in
12 the future.
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15 **PRAYER FOR RELIEF**
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17 **WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for
18 the following relief:
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20 A. Injunctive relief prohibiting Defendant from calling telephone
21 numbers advertising their goods or services, except for emergency purposes, to
22 numbers on the National Do Not Call Registry in the future;
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24 B. That the Court enter a judgment awarding Plaintiff and all class
25 members statutory damages of \$500 for each violation of the TCPA and \$1,500 for
26 each knowing or willful violation;
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1 C. An order certifying this action to be a proper class action pursuant to
2 Federal Rule of Civil Procedure 23, establishing an appropriate Class the Court
3 deems appropriate, finding that Plaintiff are a proper representative of the Class,
4 and appointing the lawyers and law firms representing Plaintiff as counsel for the
5 Class; and
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7 D. Such other relief as the Court deems just and proper.
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10 **JURY DEMAND**

11 Plaintiff request a jury trial as to all claims of the complaint so triable.
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17 Dated: January 11, 2024

PLAINTIFF, individually and on behalf of all
others similarly situated,
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19 By: /s/ Dana Oliver
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21 *Attorney for Plaintiff and the Proposed Class*
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